

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

**ANTHONY KLEIMANN**  
**a.k.a. ANTHONY M. KLEIMANN**  
6161 Ripley Lane  
Paradise, CA 95969

Respondent

Case No. 2010-263

OAH No. 2009120592

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on June 17, 2010.

IT IS SO ORDERED May 17, 2010.



\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR TAGGART  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 2010-263

OAH No. 2009120592

13 **ANTHONY KLEIMANN**  
14 **ANTHONY M. KLEIMANN**  
6161 Ripley Lane  
15 Paradise, California 95969

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Respondent.

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the  
23 Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
25 by Sterling A. Smith, Deputy Attorney General.

26 2. Respondent Anthony Kleimann (Respondent) is representing himself in this  
27 proceeding and has chosen not to exercise his right to be represented by counsel.  
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1           3.     On or about April 29, 2009, Respondent filed an application dated March 10, 2009,  
2 with the Board of Registered Nursing to obtain a registered nursing license. The Board denied  
3 Respondent's application on May 18, 2009, and filed a Statement of Issues.

4                               JURISDICTION

5           4.     Statement of Issues No. 2010-263 was filed before the Board of Registered Nursing  
6 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The  
7 Statement of Issues and all other statutorily required documents were properly served on  
8 Respondent on November 24, 2009. Respondent timely requested a hearing contesting the  
9 Statement of Issues. A copy of Statement of Issues No. 2010-263 is attached as exhibit A and  
10 incorporated herein by reference.

11                              ADVISEMENT AND WAIVERS

12           5.     Respondent has carefully read, and understands the charges and allegations in  
13 Statement of Issues No. 2010-263. Respondent has also carefully read, and understands the  
14 effects of this Stipulated Settlement and Disciplinary Order.

15           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by  
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
18 the right to present evidence and to testify on his own behalf; the right to the issuance of  
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22           7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24                              CULPABILITY

25           8.     Respondent admits the truth of each and every charge and allegation in Statement of  
26 Issues No. 2010-263.

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9. Respondent agrees that his application for issuance of a registered nursing license is subject to denial and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the Disciplinary Order given below.

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1           ✓3.     **Report in Person.** Respondent, during the period of probation, shall  
2 appear in person at interviews/meetings as directed by the Board or its designated representatives.

3           4.     **Residency, Practice, or Licensure Outside of State.** Periods of residency  
4 or practice as a registered nurse outside of California shall not apply toward a reduction of this  
5 probation time period. Respondent's probation is tolled, if and when he resides outside of  
6 California. Respondent must provide written notice to the Board within 15 days of any change of  
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
8 returning to practice in this state.

9           Respondent shall provide a list of all states and territories where he has ever been licensed  
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
11 information regarding the status of each license and any changes in such license status during the  
12 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
13 license during the term of probation.

14           5.     **Submit Written Reports.** Respondent, during the period of probation,  
15 shall submit or cause to be submitted such written reports/declarations and verification of actions  
16 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
17 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
18 Program. Respondent shall immediately execute all release of information forms as may be  
19 required by the Board or its representatives.

20           Respondent shall provide a copy of this Decision to the nursing regulatory agency in every  
21 state and territory in which he has a registered nurse license.

22           6.     **Function as a Registered Nurse.** Respondent, during the period of  
23 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
24 hours per week for 6 consecutive months or as determined by the Board.

25           For purposes of compliance with the section, "engage in the practice of registered nursing"  
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
27 non-direct patient care position that requires licensure as a registered nurse.

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1 The Board may require that advanced practice nurses engage in advanced practice nursing  
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and  
4 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
6 extension of Respondent's probation period up to one year without further hearing in order to  
7 comply with this condition. During the one year extension, all original conditions of probation  
8 shall apply.

9 7. **Employment Approval and Reporting Requirements.** Respondent shall  
10 obtain prior approval from the Board before commencing or continuing any employment, paid or  
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
12 performance evaluations and other employment related reports as a registered nurse upon request  
13 of the Board.

14 Respondent shall provide a copy of this Decision to his employer and immediate  
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two  
17 (72) hours after he obtains any nursing or other health care related employment. Respondent  
18 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
19 regardless of cause, from any nursing, or other health care related employment with a full  
20 explanation of the circumstances surrounding the termination or separation.

21 8. **Supervision.** Respondent shall obtain prior approval from the Board  
22 regarding Respondent's level of supervision and/or collaboration before commencing or  
23 continuing any employment as a registered nurse, or education and training that includes patient  
24 care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good  
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
28 approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

**9. Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following  
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other  
4 than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 13. **Physical Examination.** Within 45 days of the effective date of this  
7 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
8 physician assistant, who is approved by the Board before the assessment is performed, submit an  
9 assessment of the Respondent's physical condition and capability to perform the duties of a  
10 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
11 medically determined, a recommended treatment program will be instituted and followed by the  
12 Respondent with the physician, nurse practitioner, or physician assistant providing written reports  
13 to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered nurse, the  
15 licensed physician, nurse practitioner, or physician assistant making this determination shall  
16 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
17 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
18 immediately cease practice and shall not resume practice until notified by the Board. During this  
19 period of suspension, Respondent shall not engage in any practice for which a license issued by  
20 the Board is required until the Board has notified Respondent that a medical determination  
21 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
22 of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
24 requirement, Respondent shall immediately cease practice and shall not resume practice until  
25 notified by the Board. This period of suspension will not apply to the reduction of this  
26 probationary time period. The Board may waive or postpone this suspension only if significant,  
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
28 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

1 Only one such waiver or extension may be permitted.

2           14.     **Participate in Treatment/Rehabilitation Program for Chemical**  
3 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary  
4 period or shall have successfully completed prior to commencement of probation a Board-  
5 approved treatment/rehabilitation program of at least six months duration. As required, reports  
6 shall be submitted by the program on forms provided by the Board. If Respondent has not  
7 completed a Board-approved treatment/rehabilitation program prior to commencement of  
8 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
9 a program. If a program is not successfully completed within the first nine months of probation,  
10 the Board shall consider Respondent in violation of probation.

11           Based on Board recommendation, each week Respondent shall be required to attend at least  
12 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
13 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
14 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
15 added. Respondent shall submit dated and signed documentation confirming such attendance to  
16 the Board during the entire period of probation. Respondent shall continue with the recovery plan  
17 recommended by the treatment/rehabilitation program or a licensed mental health examiner  
18 and/or other ongoing recovery groups.

19           15.     **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
20 shall completely abstain from the possession, injection or consumption by any route of all  
21 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
22 the same are ordered by a health care professional legally authorized to do so as part of  
23 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
24 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
25 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
26 medication will no longer be required, and the effect on the recovery plan, if appropriate.

27           Respondent shall identify for the Board a single physician, nurse practitioner or physician  
28 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and

1 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-  
2 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
3 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances  
4 considered addictive have been prescribed, the report shall identify a program for the time limited  
5 use of any such substances.

6 The Board may require the single coordinating physician, nurse practitioner, or physician  
7 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
8 medicine.

9 16. **Submit to Tests and Samples.** Respondent, at his expense, shall  
10 participate in a random, biological fluid testing or a drug screening program which the Board  
11 approves. The length of time and frequency will be subject to approval by the Board.  
12 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
13 number at all times. Respondent shall also ensure that messages may be left at the telephone  
14 number when he is not available and ensure that reports are submitted directly by the testing  
15 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
16 to the Board by the program and Respondent shall be considered in violation of probation.

17 In addition, Respondent, at any time during the period of probation, shall fully cooperate  
18 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
19 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
20 hypnotics, dangerous drugs, or other controlled substances.

21 If Respondent has a positive drug screen for any substance not legally authorized and not  
22 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
23 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
24 practice pending the final decision on the petition to revoke probation or the accusation. This  
25 period of suspension will not apply to the reduction of this probationary time period.

26 If Respondent fails to participate in a random, biological fluid testing or drug screening  
27 program within the specified time frame, Respondent shall immediately cease practice and shall  
28 not resume practice until notified by the Board. After taking into account documented evidence

1 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
2 suspend Respondent from practice pending the final decision on the petition to revoke probation  
3 or the accusation. This period of suspension will not apply to the reduction of this probationary  
4 time period.

5           **17. Mental Health Examination.** Respondent shall, within 45 days of the  
6 effective date of this Decision, have a mental health examination including psychological testing  
7 as appropriate to determine his capability to perform the duties of a registered nurse. The  
8 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
9 practitioner approved by the Board. The examining mental health practitioner will submit a  
10 written report of that assessment and recommendations to the Board. All costs are the  
11 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
12 result of the mental health examination will be instituted and followed by Respondent.

13           If Respondent is determined to be unable to practice safely as a registered nurse, the  
14 licensed mental health care practitioner making this determination shall immediately notify the  
15 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
16 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
17 practice and may not resume practice until notified by the Board. During this period of  
18 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
19 is required, until the Board has notified Respondent that a mental health determination permits  
20 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
21 probationary time period.

22           If Respondent fails to have the above assessment submitted to the Board within the 45-day  
23 requirement, Respondent shall immediately cease practice and shall not resume practice until  
24 notified by the Board. This period of suspension will not apply to the reduction of this  
25 probationary time period. The Board may waive or postpone this suspension only if significant,  
26 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
27 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
28 Only one such waiver or extension may be permitted.

18. **Therapy or Counseling Program.** Respondent, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

19. **Other Board or Regulatory Agency Orders.** Respondent is subject to concurrent disciplinary orders from the California Board of Vocational Nursing and Psychiatric Technicians. If Respondent violates that Order, this will be deemed a violation of the probationary conditions imposed by the Board, and may result in the filing of an Accusation and Petition to Revoke Probation.

## ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on the registered nursing license to be issued to me on the conditions specified above. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3-11-10

ANTHONY KLEIMANN  
Respondent

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Dated:

STERLING A. SMITH  
Deputy Attorney General  
*Attorneys for Complainant*

STIPULATED SETTLEMENT (2010-263)

**Exhibit A**

**Statement of Issues No. 2010-263**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
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8 *Attorneys for Complainant*  
9

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11 BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA  
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14 In the Matter of the Statement of Issues  
Against:

15 ANTHONY KLEIMANN, aka  
16 ANTHONY M. KLEIMANN  
6161 Ripley Lane  
17 Paradise, CA 95969

18 Applicant/Respondent.  
19

Case No. 2010-263

STATEMENT OF ISSUES

20 Complainant alleges:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
23 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
24 Department of Consumer Affairs.

25 Application History

26 2. On or about April 29, 2009, the Board of Registered Nursing, Department of  
27 Consumer Affairs received an Application for Licensure by Examination from  
28 Anthony Kleimann, also known as Anthony M. Kleimann ("Respondent") On or about

1 March 10, 2009, Respondent certified under penalty of perjury to the truthfulness of all  
2 statements, answers, and representations in the application. The Board denied the application on  
3 May 18, 2009.

#### 4 STATUTORY PROVISIONS

5 3. This Statement of Issues is brought before the Board of Registered Nursing  
6 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All  
7 section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

8 4. Code section 2736 provides, in pertinent part, that the Board may deny a license when  
9 it finds that the applicant has committed any acts constituting grounds for denial of licensure  
10 under section 480 of that Code.

11 5. Code section 480 states, in pertinent part:

12 (a) A board may deny a license regulated by this code on the grounds  
13 that the applicant has one of the following:

14 (1) Been convicted of a crime. A conviction within the meaning of this  
15 section means a plea or verdict of guilty or a conviction following a plea of  
16 nolo contendere. Any action which a board is permitted to take following the  
17 establishment of a conviction may be taken when the time for appeal has  
elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
order granting probation is made suspending the imposition of sentence,  
irrespective of a subsequent order under the provisions of Section 1203.4 of the  
Penal Code.

18 (3) Done any act which if done by a licentiate of the business or  
19 profession in question, would be grounds for suspension or revocation of  
license.

20 6. Section 2761 of the Code states:

21 The board may take disciplinary action against a certified or licensed  
22 nurse or deny an application for a certificate or license for any of the following:

23 (a) Unprofessional conduct, . . .

24 (f) Conviction of a felony or of any offense substantially related to the  
25 qualifications, functions, and duties of a registered nurse, in which event the  
record of the conviction shall be conclusive evidence thereof.

26 7. Section 2762 of the Code states, in pertinent part:

27 In addition to other acts constituting unprofessional conduct within the  
28 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
for a person licensed under this chapter to do any of the following:

1 (b) Use any controlled substance as defined in Division 10  
2 (commencing with Section 11000) of the Health and Safety Code, or any  
3 dangerous drug or dangerous device as defined in Section 4022, or alcoholic  
4 beverages, to an extent or in a manner dangerous or injurious to himself or  
5 herself, any other person, or the public or the extent that such use impairs his or  
6 her ability to conduct with safety to the public the practice authorized by his or  
7 her license.

8 (c) Be convicted of a criminal offense involving the prescription,  
9 consumption, or self-administration of any of the substances described in  
10 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
11 record pertaining to, the substances described in subdivision (a) of this section,  
12 in which event the record of the conviction is conclusive evidence thereof.

### 13 FIRST CAUSE FOR DENIAL OF APPLICATION

#### 14 (Criminal Conviction)

15 8. Respondent's application is subject to denial under Code sections 2761, subdivision  
16 (f), 2736 and 480, subdivision (a)(1), in that on or about January 13, 2009, in the Superior Court  
17 of California, County of Plumas, in the case entitled, *People of the State of California v.*  
18 *Anthony M. Kleimann* (Super Ct. Plumas County, 2008, Case No. M08-00148) Respondent was  
19 convicted on his plea of no contest of violating Vehicle Code sections 23152, subdivision (b)  
20 (Drive While Having .08% Blood Alcohol Content, and More [.22%] with a Prior [03/30/1999]  
21 and 23578 [B.A.C. 20% or Higher], both misdemeanors. The circumstances of the crime are that  
22 on or about November 7, 2008, Respondent was pulled over by a Plumas Sheriff's Officer for  
23 speeding 70 m.p.h. in a 55 m.p.h. zone and weaving onto the shoulder. The officer detected an  
24 odor of alcohol and subsequently initiated a field sobriety test. Subsequent thereto, Respondent  
25 was given breath tests with results of .22% and .22%. Such crime is substantially related to the  
26 qualifications, functions and duties of a registered nurse.

### 27 SECOND CAUSE FOR DENIAL OF APPLICATION

#### 28 (Any Acts by a Licentiate)

9. Respondent's application is subject to denial under Code sections 2736 and 480,  
subdivision (a)(3), in that Respondent committed acts that if done by a licentiate of the business  
or profession, would be grounds for suspension or revocation of a license, pursuant to and Code  
sections 2761, subdivision (a), and 2762, subdivisions (b) and (c), as set forth in paragraph 8,  
above.

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